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ABSTRACT

This issue of "Bill of Rights in Action" explores issues raised by empires and imperial law. The first article, "Clash of Empires: The Fight for North America," looks at the clash of empires and the fight for North America during the 18th century. The second article, "When Roman Law Ruled the Western World," examines Roman Law, which helped hold the empire together and is the basis for many modern law codes. The final article, "Puerto Rico: Commonwealth, Statehood, or Independence?" looks at the future of Puerto Rico, a U.S. territory acquired during the Spanish American War. Each article includes questions for class discussion and writing, a further reading list, and classroom activities. (BT)

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Clash of Empires: The Fight For North America

The British and French clashed over control of the North American interior during the 1700s. Few realized that possession of this huge territory would determine much about the fate of their empires and the legal and political institutions that would govern America.

Starting in 1607, the English established 13 colonies along the Atlantic coastline of North America. As the population of these colonies increased, colonists pushed westward seeking more land. French explorers claimed Canada and almost everything else west of the Appalachian Mountains to the Mississippi River and beyond. By the 1700s, the British and French were clashing over their claims for North America.

US HISTORY

On the night of February 29, 1704, several hundred French Canadians and their Native American allies attacked the tiny English settlement of Deerfield on the western frontier of the Massachusetts Bay Colony. Commanded by a French army officer, the raiders killed 38 Deerfield inhabitants and burned most of their houses. The raiders forced more than a hundred men, women, and children to march back to Montreal, Canada, a distance of 300 miles. During the march, the raiders killed 16 of their captives and two more starved to death.

In 1759, General James Wolfe led British troops in the Battle of Quebec during the French and Indian War. (Bettmann/Corbis)

Eventually, Massachusetts ransomed most of the Deerfield survivors, and they returned home.

Attacks like the one against Deerfield occurred repeatedly in North America during a series of wars between the French and English that lasted about 60 years. Throughout this period, France and England fought each other in many parts of the world seeking to create their colonial empires.

In 1754, when war erupted between Britain and France in North America for the fourth time, the clash soon led to the first world-wide war in history.

Three Peoples In Conflict

In addition to the English and French, a third group of people fought for possession of the North

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Law of Empires

This *Bill of Rights in Action* explores issues raised by empires and imperial law. The first article looks at the clash of empires and the fight for North America during the 18th century. The second article examines Roman Law, which helped hold the empire together and is the basis for many modern law codes. The final article looks at the future of Puerto Rico, a U.S. territory acquired in the Spanish American War.

U.S. History: Clash of Empires: The Fight for North America

World History: When Roman Law Ruled the Western World

U.S. Government: Puerto Rico: Commonwealth, Statehood, or Independence?

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America in the 1700s. This group was made up of Native American tribes, which had occupied North America for thousands of years.

After the Europeans began to arrive, six tribes in what is now mostly the state of New York joined into the powerful Iroquois Confederacy. The Iroquois tribes sometimes sided with the French, sometimes with the English, and sometimes with neither. Because the Iroquois relied on trading with the English for manufactured goods, including firearms, the six tribes generally became English allies in wartime.

In 1744, the Iroquois signed a treaty with several English colonies, including Virginia. In exchange for gifts and money, the Iroquois gave up rights to any lands claimed by Virginia. What the Indians did not know was that the colonial charter of Virginia claimed that its western boundary extended to the Pacific Ocean.

Westward beyond the Iroquois territory, in what became known as the Ohio Country, many other tribes traded with and became allies of the French. Unlike the English colonists, who were mainly farmers, French fur trappers and traders did not desire Indian land.

In 1663, the French created the royal province of New France. It eventually extended in a great arc from the St. Lawrence River down the Mississippi Valley to New Orleans. Except for widely separated Indian tribes and French fur traders, this region was vast and underpopulated, a tempting prize for land-hungry American settlers.

The French In Full Command

In 1748, the Ohio Company began building trading posts on the Virginia frontier. Established the previous year by Virginia planters, the company's goal was to sell land to American settlers in the Ohio Valley, which Virginia claimed. The Ohio Valley, however, was part of New France, and Native American tribes allied with the French lived there.

In 1753, the governor of New France, the Marquis de Duquesne, sent an expedition into the Ohio Valley to block English trespassing. Duquesne was following orders from the French government "to make every possible effort to drive the English from our lands."

Governor Duquesne ordered the construction of several forts in the Ohio Valley, including one at the forks of the Ohio and Monongahela rivers (present-day Pittsburgh, Pennsylvania). When the French arrived, however, Ohio Company workers were already building their own fortified trading post. The French quickly drove the workers away, destroyed their buildings, and erected a strong bastion that they named Fort Duquesne.

In the meantime, the British government instructed the governors of the 13 colonies "to prevent by Force" any attempts by the French or their Indian allies to occupy British lands. Robert Dinwiddie was the royal governor of Virginia and also a shareholder in the Ohio Company. In the spring of 1754, Dinwiddie ordered a colonial force to march into the Ohio Valley to defend Virginia's interests. He commissioned 22-year-old George Washington to command this expedition.

Washington led about 160 poorly trained colonial soldiers into the Ohio Country. He was not aware, however, that the French had built Fort Duquesne and manned it with a large force of regular French soldiers. Along the way, a small band of Iroquois warriors joined Washington's force. Finally, they made contact with a French scouting party and defeated it in a brief battle.

In exchange for gifts and money, the Iroquois gave up rights to any lands claimed by Virginia. What the Indians did not know was that the colonial charter of Virginia claimed that its western boundary extended to the Pacific Ocean.

After the battle, the wounded French commanding officer insisted on reading an order for Washington to leave French territory. Suddenly, the Iroquois leader attacked the French officer and split his head open with a war hatchet. In the chaos that followed, other Iroquois warriors scalped the French dead and wounded in full view of the appalled young Washington.

When the French at Fort Duquesne heard about the defeat, they sent a large number of soldiers and Indians to attack Washington. Washington had retreated and hastily built a crude fort called Fort Necessity.

The French surrounded the fort and attacked with muskets and cannon until about a third of Washington's men had been killed or wounded. Washington then surrendered and was allowed by the French to march with his men back to Virginia.

The following year, the British army sent 2,500 redcoats to force the French out of the Ohio Valley. Commanded by Major General Edward Braddock, the British fought in the traditional European style while the French and their Indian allies picked off their enemy one at a time from the cover of the woods. After taking heavy losses, the wounded Braddock ordered a retreat. Shortly afterward he died.

News of Braddock's defeat panicked Virginia and the other British colonies. Their frontiers lay open to French and Indian attacks, and the French controlled the Ohio Valley.

British Victory

The year following Braddock's defeat, disagreements in Europe coupled with the fighting already taking place in North America brought on another war between the European powers. Called the "Seven Years' War" in Europe and the "French and Indian War" in North America, this conflict proved to be the first world-wide war. Fighting took place not only in Europe and North America, but also in India, West Africa, the Philippines, and the West Indies.

Prime Minister William Pitt led the British government during most of the conflict. He devised a strategy of spending enormous sums of money to finance British and colonial troops to drive France out of North America, thus crippling its empire.

Unlike previous British leaders, Pitt treated the American colonists as allies rather than servants. As a result, American troops fought alongside British redcoats in almost every battle of the war in North America.

At first, the French and their Indian allies dominated the fighting. But by 1758, British generals and admirals were planning a major invasion of Canada. Fort Duquesne fell in November 1758. The next year, the French surrendered or abandoned more forts. Also, the Iroquois changed from being neutral to becoming allies of the British.

In June 1759, 5,000 British troops and 49 warships assaulted Quebec City on the St. Lawrence River. After a fierce battle, the British forces led by General James

In 1754, George Washington led a small force into the Ohio Valley to defend Virginia's interests. Failing their mission, Washington's troops were surrounded by the French and forced to surrender. (Corbis)

Wolfe defeated the French army and went on to attack Montreal a few months later. The French, lacking food and supplies because of a British blockade, finally surrendered not only Montreal but all of New France.

The Debate Over Canada

The fighting for North America stopped with the conquest of Canada in 1759. But as the war lingered on in Europe, negotiations for a peace treaty began. Previous peace treaties that ended European wars had sometimes returned conquered territories to a defeated nation. Thus, it was not unthinkable that France would keep Canada or all of New France.

Canada made up the northern part of New France, controlling the valuable Indian fur trade as well as water transportation into the heart of North America. But many businessmen in London opposed annexing Canada to the British Empire. They were much more interested in holding onto Guadeloupe, a major French sugar-producing island that had been captured in the war. Guadeloupe, they argued, was more valuable than Canada with its harsh climate, lack of agriculture, and seeming lack of resources except for furs.

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The London businessmen saw a danger in driving the French entirely out of North America. This would end the need for British protection of the American colonies. No longer fearing a French threat, the colonies might break away from the mother country.

Others in Britain argued in favor of annexing Canada. Among them was Benjamin Franklin. He was in London in 1760 during the debate over Canada. He published a pamphlet spelling out reasons why taking Canada into the empire was in Britain's best economic interest. Franklin downplayed any revolt of the American colonies from the empire, unless Britain developed a "hostile attitude toward her children in the New World." He also expressed the fear that more wars and massacres would occur if the French remained in Canada.

The Seven Years' War finally ended in 1763 with the Treaty of Paris. France held on to Guadeloupe, two tiny islands in the St. Lawrence Gulf, some trading posts in India, and a slave port in West Africa. Curiously, the French made little effort in the treaty negotiations to keep New France. Thus, the British acquired Canada and all the land from the Appalachians to the Mississippi River, an area 12 times the size of England. The British also took Florida from Spain, which had been an ally of France in the war.

The Fate of Empires

In the end, the British commanded the greatest empire in the world, at least until the American Revolution. France never really recognized North America's rich resources or its potential for settlement. After handing over North America to Britain, France and its empire began a long decline as a world power.

Some Native American tribes, especially those that had been allies of the French, revolted for a short time against British rule. To quell the danger of warfare between Indians and white settlers, the British drew the so-called Proclamation Line of 1763. No whites were permitted to settle west of this line, which ran from Canada to Florida along the crest of the Appalachians.

The Proclamation Line proved to be a failure as thousands of American settlers seeking land poured into the territory. The flood of American immigration to the West had begun. This doomed the great inland empire of Native American tribes as America expanded west.

For Discussion and Writing

1. What was the basic cause of the French and Indian War in North America?
2. What role did the Native American tribes play in the fight for North America?
3. Do you think the French and Indian War and its outcome speeded up or held back the American Revolution? Why?

For Further Reading

Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America.* New York: Alfred A. Knopf, 2000.

Fregault, Guy. *Canada: The War of the Conquest.* Toronto: Oxford University Press, 1969.

A C T I V I T Y

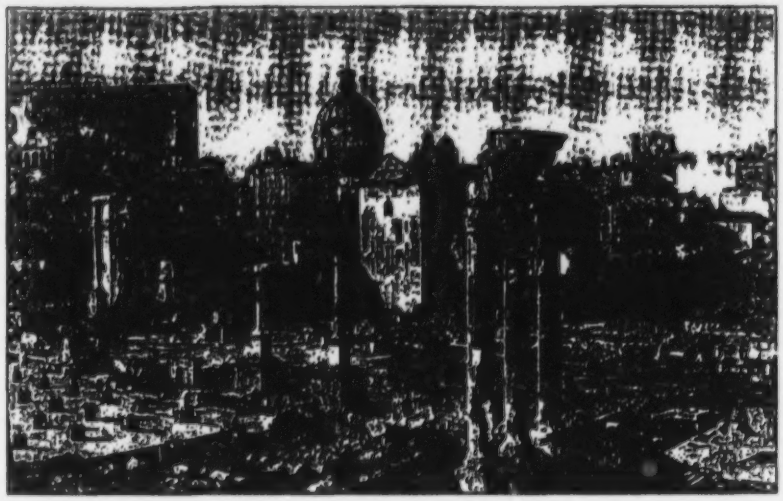
Who Should Own North America?

In this activity, students will role play five groups that had a stake in North America just before the outbreak of the French and Indian War in 1754.

1. Form five small groups to each role play one of the following:
   a. The government of King George II of Great Britain
   b. The government of King Louis XV of France
   c. French Canadian fur trappers and traders
   d. American settlers
   e. Native American leaders
2. Each group should research the article and the textbook to develop an answer along with supporting arguments to this question: **Who Should Own North America?**
3. Each role group will then report to the rest of the class. At the end of each group report, the other groups may ask questions or present counter-arguments.
4. After all groups have finished reporting, every student should write an essay that answers the activity question.

When Roman Law Ruled the Western World

Starting as a small kingdom, Rome grew to be republic and then an empire that lasted about 500 years in Western Europe and almost another thousand years in the eastern Mediterranean. During that time, the Romans introduced elements of civil and criminal law that provided the foundation for the legal systems of most nations in the Western world today.



The ruins of the Roman Forum. This was the heart of the Roman Empire, where judicial, civic, business, and religious activities took place. (Library of Congress)

Rome began as a small kingdom around 750 B.C. As in all ancient societies, Roman law began with custom. A custom is a way of doing things over time. Perhaps the most unique and far-reaching custom of the ancient Romans was the idea of *patria potestas*. This Latin term refers to the power of the Roman father over his wife, children, and other members of his family. His word was literally the law.

In early times, the father held life and death power over his children. He could leave an unwanted or deformed newborn infant in the forest to die of exposure. He could also sell his children into slavery.

WORLD HISTORY

A father's absolute power over his family lasted until he died. His children, even though they may have been adults, could not own property because the father legally owned all the possessions of family members. Nor could children marry without the father's consent.

Just because a father held the power of a dictator did not mean that every father acted like one. In practice, many fathers gladly gave up their rights over their adult children. When a daughter married, she usually left her father's control and came under the power of her husband. Fathers also legally emancipated or freed their sons to become independent.

Under *patria potestas*, the Roman father acted as a judge to settle legal matters within the family. When a conflict occurred between families, the fathers of each would negotiate a settlement.

Law in the Roman Republic

After the Romans established a republic in 509 B.C., they created several lawmaking bodies representing different classes of people. At first, only the upper-class patricians made the laws. But before long, the lower-class plebeians gained this right.

About 60 years after the founding of the Roman Republic, discontented plebeians demanded a written code of laws and legal rights. The plebeians complained that because the laws were not in writing, government authorities and creditors could easily abuse the people.

After some resistance from the patricians, a committee produced 12 bronze tablets that together contained Rome's first law code. Called the Twelve Tables, this code recorded important legal concepts such as:

- rules to settle boundary and other property disputes.
- formulas to make contracts and wills.
- protections for debtors.
- rights of citizens, such as the right to be represented by someone in a legal matter.

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Around 570 B.C., the Romans created the praetor system for settling conflicts. It largely replaced the role of families and fathers in the legal system. Under the new system, the praetor, a powerful government official, took written complaints from citizens and investigated them. The praetor decided whether to authorize a trial before a judge. The plaintiff, the one bringing the complaint, and the defendant then presented their evidence to the judge. Finally, the praetor decided the case and, if the plaintiff won, ordered a remedy or compensation of some type. The praetor system handled criminal offenses in the same way.

Appointed to one-year terms, the praetors became increasingly powerful judicial officials. They began the practice of issuing a written statement, called the Praetor's Edict, as their term of office began. This edict described the rights the praetor intended to enforce and what remedies he would recommend for wrongful acts. Eventually, the edict became a standard set of legal principles and rules passed from one praetor to another. Praetors used their edicts to interpret the Twelve Tables, as well as the laws passed by the assemblies of the Republic.

Family Law, Civil Wrongs, and Jury Courts

Family law in the Roman Republic set the minimum age for marriage at 14 for males and 12 for females. No formal ceremony, religious or otherwise, was necessary. The fathers of both families, however, still had to give consent. The male-dominated system also required the wife to bring a dowry (usually some kind of property) to her husband, who then controlled it. But either spouse could divorce the other without having to go through any legal formalities.

Slavery was common in ancient Rome. One became a slave by being captured in war, born to a slave mother, or convicted for certain offenses. Masters had near absolute power over their slaves during the republic, including the right to kill them. Masters could also free their slaves. When this happened, the slave automatically became a Roman citizen.

Throughout most of the long history of the Roman Republic, the law treated criminal offenses as "civil wrongs" that were handled in lawsuits between the victim and the accused offender. For example, the Praetor's Edict declared that if a judge found a person guilty of certain kinds of stealing, he had to pay his victim four times the value of the stolen goods. Judges decided the compensation due a victim for personal injuries, usually a sum of money.

Around 80 B.C., toward the end of the republic, the government created jury courts that specialized in particular crimes. Each court had a presiding judge and up to 75 jury members, who were chosen by lot to decide a case. At first, only patrician senators could serve as jurors, but later, juries included men from other propertied classes.

Any male Roman citizen could accuse someone of a crime and seek to prosecute him or her before a jury court. To bring a case, the accuser had to take an oath that his prosecution was in good faith. The accused person remained free while each side prepared for the trial. Both sides had the right to challenge jurors and demand that they be replaced.

Punishments included fines, flogging, loss of citizenship, banishment, forced labor in government mines, and death by crucifixion or by beasts in an arena, such as the famous Coliseum.

At the trial, the accusers had to be present and often conducted their own prosecution. The defendants could represent themselves or be represented by one or more advocates. These advocates were typically experienced public speakers rather than experts in the law. Lawyers did exist, but they offered their advice (for free) outside the court trial.

The trial procedure would be familiar to us today: opening speeches, examination and cross-examination of witnesses, introduction of other evidence such as documents, and closing speeches. The Romans considered important any evidence about the defendant's character. The judge could order the punishment of a witness who committed perjury. It was necessary for a majority of the jurors to find a defendant guilty. If the jury split evenly, the defendant would go free.

Under the jury court system, the law assigned penalties for crimes. Punishments included fines, flogging, loss of citizenship, banishment, forced labor in

government mines, and death by crucifixion or by beasts in an arena, such as the famous Coliseum. Lower-class criminals suffered physical punishment and death much more frequently than upper-class offenders for the same crime. Although there was no right of appeal, a lawmaking assembly could pardon a convicted criminal.

Imperial Law

After Caesar Augustus established the Roman Empire in 31 B.C., imperial officials and courts directly controlled by the emperor replaced the jury courts. The emperor also assumed the power to make and interpret the laws.

Imperial court officers took over the job of prosecuting criminal defendants. A network of spies and investigators passed on evidence to the imperial prosecutors. Torture became a common method for gathering evidence and securing confessions. The concept of a fair trial further suffered because the emperor could always dictate the verdict.

For some offenses, the emperor confiscated the convicted criminal's property. In many cases, this impoverished the offender's entire family. Augustus made adultery a crime, forcing a guilty wife to divorce her husband, surrender a portion of her dowry to him, and lose a third of her property. While a wife could not accuse her husband of adultery, she could divorce him. A wife, but not an unmarried woman, could be punished (usually by banishment) for abortion since the law considered that her husband had been deprived of an heir. The penalty for rape was death.

Caesar Augustus, the first Roman emperor, reformed Roman law. (University of Virginia)

Treason could include a variety of acts from armed rebellion to cursing the emperor. Those found guilty would be banished or executed and would also have their property confiscated. Private organizations of all kinds were carefully controlled or outlawed because they provided opportunities for people to meet and conspire against the emperor. This was one reason why emperors banned the early Christian Church.

The Romans usually did not tamper with the local customs and laws of the peoples they conquered. After centuries of Roman rule, however, Roman law began to apply to citizens and foreigners alike throughout the empire. The *jus gentium* ("law of the nations") included trade laws, rulings by governors and judges in the provinces, as well as edicts by the emperors. The concept of a single law for all peoples became more of a reality in A.D. 212 when Emperor Caracalla extended Roman citizenship to nearly all free inhabitants of the empire.

Some changes occurred in Roman law when Christianity became the official religion of the Empire in A.D. 395. For example, a marriage was not legal unless the couple had received the blessing of a church priest. Divorce became much more difficult. The emperors also outlawed the old pagan religious cults.

After the collapse of the Roman Empire in Western Europe in A.D. 476, Roman law underwent a long decline. In the eastern part of the empire, however, the law of the Romans continued to flourish under emperors like Justinian.

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In A.D. 534, Justinian published the final version of a new Roman law code. This monumental work preserved, clarified, and updated centuries of Roman law-making since the Twelve Tables codified early Roman law almost a thousand years earlier. Justinian's Code kept Roman law alive in the eastern empire for nearly another thousand years.

Although Roman law seemed to disappear entirely after the final conquest of the eastern empire by the Ottoman Turks in 1453, the Christian church preserved much of it in its own canon (religious) law. In addition, Roman law experienced a revival of interest by scholars during the Renaissance.

In modern times, Roman law became the basis for several Western European law codes including those of France (Napoleonic Code), Austria, and Germany. In turn, these codes influenced many other countries such as Spain, Egypt, Japan, and even the state of Louisiana.

In the Western world, only England, its colonies, and Scandinavian countries developed law systems different from ancient Rome's. But even these countries are indebted to the Romans for creating many legal concepts, principles, and rights that govern the lives of their citizens today.

For Discussion and Writing

1. How did the following contribute to the development of Roman law?
   a. *patria potestas*
   b. Praetor's Edict
   c. jury courts
   d. emperors
   e. Christianity
2. List five Roman law ideas that are familiar to you as part of the American law system today.
3. Did the Romans believe in equality before the law? Support your answer with evidence from the article.

For Further Reading

Robinson, O. F. *The Criminal Law of Ancient Rome.* Baltimore, Md.: Johns Hopkins University Press, 1995.

Watson, Alan. *Roman Law & Comparative Law.* Athens, Ga.: University of Georgia Press, 1991.

ACTIVITY

Law of the Nations

For a while, Roman law became the law of the Western world. Is the idea of a "law of the nations" workable in the world today?

A. Below are seven general topics. Form small groups to write an international law for each one of the topics. Try to write your laws so they would be acceptable to most nations and cultures in the world today. For example, a law for the environment might be: **No person will be permitted to destroy any endangered species.**

B. The groups should then discuss each topic, one at a time, giving reasons why they think their laws should apply to all the nations in the world today.

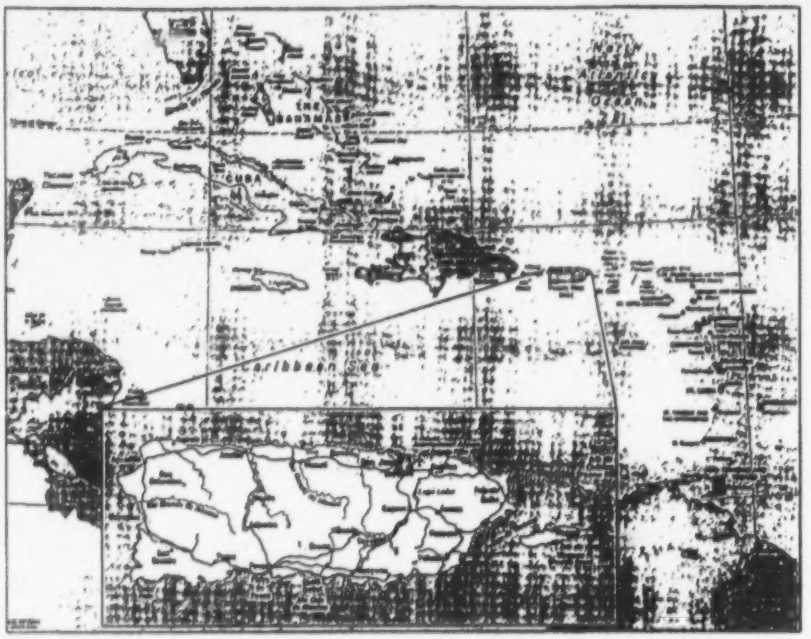
C. Finally, the class should discuss whether or not a "law of the nations" is a good idea.

Topics for a Law of the Nations

1. marriage
2. religion
3. government
4. immigration
5. terrorism
6. environment
7. war

Puerto Rico: Commonwealth, Statehood, or Independence?

For more than 100 years, Puerto Rico has been a territorial possession of the United States. Both the Puerto Rican people and the U.S. Congress face a difficult choice about the future of this Caribbean island.



Puerto Rico is just east of the Dominican Republic. Vieques Island is off the eastern coast of Puerto Rico. (University of Texas at Austin, Perry-Castañeda Library Map Collection)

Vieques Island is a part of Puerto Rico, which has been a territorial possession of the United States since the Spanish-American War. Early in World War II, the U.S. Navy took over much of Vieques, dislocating dozens of families. Today, the Navy uses the eastern end of Vieques as a weapons testing range.

In 1999, a bomb went astray on the Vieques testing range and killed a Puerto Rican security guard who worked for the U.S. Navy. This incident provoked major protests and demands that the Navy immediately leave the island. The Navy maintains that the testing facility is essential for U.S. defense. Nevertheless, President George W. Bush has promised that the Navy will give up Vieques, but not before 2003.

U S GOVERNMENT

Many Puerto Ricans have taken up the Vieques cause as a symbol of their dissatisfaction with Puerto Rico's current political status as a "commonwealth." Some even refer to Puerto Rico today as "the oldest colony in the world."

"The Taste of Empire"

Following the Civil War, America's rapidly growing industrial and sea power in the world awakened U.S. interest in acquiring new territories. In the words of one newspaper at the time, "The taste of empire is in the mouth of the people." The opportunity came with a war with Spain.

Spain had ruled its colonies of Cuba and Puerto Rico for 400 years. In 1897, Spain granted both their own elected parliaments. Puerto Rico's parliament met for the first time on April 25, 1898, the day the United States declared war on Spain.

Two months before, in February 1898, the U.S. battleship Maine had blown up in the harbor of Havana, Cuba. The United States blamed the tragedy on the Spanish and demanded that they immediately grant independence to Cuba, where a revolt was already underway. When Spain refused, the United States declared war and invaded Cuba.

Fearing that Spain might surrender before the United States could occupy other Spanish colonies, U.S. leaders ordered General Nelson Miles to invade Puerto Rico on July 25. The Spanish-speaking civilian population warmly welcomed the Americans, apparently believing they had come to help Puerto Rico become a free, independent nation. Instead, Miles invited the Puerto Rican people to "accept with joy the system of Government of the United States."

A few months later, the United States and Spain signed the Treaty of Paris, ending the war. Spain recognized Cuba's independence, but handed over possession of the Philippines, Guam, and Puerto Rico to the United States. Regarding Puerto Rico, the treaty stated that "the civil rights and political conditions of the natural inhabitants shall be determined by the Congress." It has been that way ever since.

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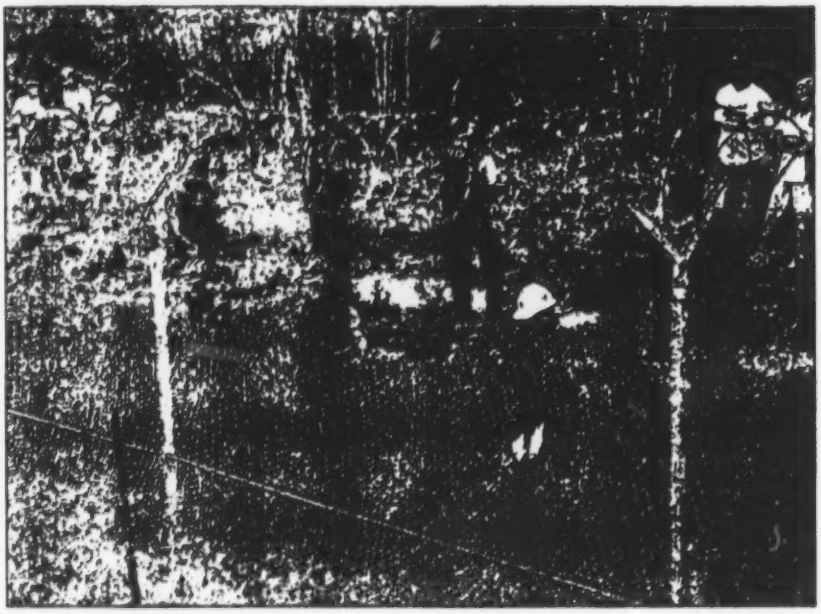
American Colonial Rule

For the next two years, American military governors, appointed by the president, governed Puerto Rico. These governors improved health, education, and economic conditions. But they also abolished the newly elected Puerto Rican parliament, appointed only Americans to head government departments, and censored local newspapers. The last military governor remarked that Puerto Ricans were still "unfit for self-government."



In April 2001, U.S. Navy Seabees worked to repair fences damaged by protesters at the Navy's Camp Garcia on Vieques Island, Puerto Rico. (United States Department of Defense)

In 1900, Congress passed the Foraker Act establishing a civilian government for Puerto Rico. Under the act, the U.S. president, with the advice and consent of the Senate, appointed the governor, the heads of government departments, and justices of the Puerto Rican Supreme Court. Puerto Rican voters elected delegates to a single-house legislature as well as a "Resident Commissioner." The commissioner represented Puerto Rico's interests in Washington, but not as a member of Congress. The Foraker Act also exempted Puerto Ricans from having to pay federal taxes. Federal grants would finance the new civilian government.

For the first time, U.S. courts had to decide the constitutional status of America's newly acquired overseas possessions. Article IV, Section 3, of the U.S. Constitution gives to Congress the "Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States. . . ."

In a series of decisions between 1901 and 1905, the U.S. Supreme Court held that acquisitions like Puerto Rico were territories "owned by the United States." Congress, therefore, had the power to pass laws to determine their political status. The Supreme Court further ruled that only "fundamental rights," not the full U.S. Bill of Rights, protected the inhabitants of territorial possessions including Puerto Rico.

Under the Foraker Act, the U.S. president must appoint a U.S. citizen as governor of Puerto Rico. The appointed governors continued the military government policy of allowing only English instruction in the public schools. (Spanish again became the primary language in the schools after World War II.)

In 1917, Congress passed the Jones Act, which expanded the Puerto Rican legislature to two houses. Most importantly, this law also granted U.S. citizenship to Puerto Ricans. But the law still excluded them from voting for president and exercising other rights of mainland American citizens.

Commonwealth

During World War II, President Franklin D. Roosevelt proposed that Congress pass a law granting the people of Puerto Rico the right to elect their governor. Congress passed Roosevelt's proposal into law after the war, and Puerto Rican voters elected their first governor in 1948.

Two years later, Congress enacted a procedure to expand democratic self-government by enabling the Puerto Rican people to write their own constitution. A constitutional convention submitted a new constitution to the Puerto Rican voters who overwhelmingly approved it. Next, Congress approved it, but eliminated its bill of rights, which included broad guarantees such as the "right to an adequate standard of living." Finally, on July 3, 1952, President Harry

S. Truman signed the law putting into effect the constitution for the "Commonwealth of Puerto Rico."

Since 1952, the Puerto Rican people have continued to debate the future status of their homeland. So far, a majority has supported the commonwealth concept, but increasing numbers of Puerto Ricans argue for more self-government, admission as a U.S. state, or even complete national independence.

Unlike the Philippines, which became independent in 1946, and Hawaii, which became a state in 1959, the future of Puerto Rico's political status continues to be uncertain. Many Puerto Ricans say they want more control over their island's affairs, as the continuing Vieques protest seems to indicate. But neither the Puerto Rican people nor Congress have decided exactly which path to take into the future.

For Discussion and Writing

1. How is Puerto Rico's political status today different from that of a U.S. state? How is it different from a nation?
2. Do you think Puerto Rico is still an American colony? Why?
3. Do you think the U.S. Navy should leave Vieques Island? Why?

For Further Reading

Monge, Jose Trias. *Puerto Rico, The Trials of the Oldest Colony in the World.* New Haven, Conn.: Yale University Press, 1997.

Wagenheim, Olga Jimenez de. *Puerto Rico: An Interpretive History from Pre-Columbian Times to 1900.* Princeton, N. J.: Markus Wiener, 1998.

POLITICAL STATUS OPTIONS FOR PUERTO RICO

OPTION 1: CURRENT COMMONWEALTH

- Puerto Ricans are American citizens who serve in the military and may reside in the United States.
- Puerto Rico has a constitution that provides for self-government in most local matters and includes the right to elect a governor and two-house legislature.
- Puerto Ricans are exempt from the federal income tax, but pay into Social Security.
- Federal grants (more than $10 billion annually) finance a large portion of Puerto Rico's government.
- Puerto Rico is a territorial possession under the authority of Congress.
- The United Nations still debates whether Puerto Rico is a colony.

OPTION 2: "ENHANCED" COMMONWEALTH

- Includes all items listed in Option 1
- Provides the right to vote for U.S. president and elect a voting representative to Congress (would probably require amending the U.S. Constitution).
- Adds a bill of rights to the Constitution of Puerto Rico.
- Allows membership in trade and other world organizations.
- These enhancements would all have to be approved by Congress, which would continue holding ultimate power over Puerto Rico as a territorial possession.

OPTION 3: STATEHOOD

- Puerto Rico would have equal status with the other 50 states and would no longer be under congressional authority.
- Two senators and about seven congressional representatives would represent Puerto Rico in Congress.
- Federal financial benefits would increase, but Puerto Ricans would pay federal income taxes.
- Some businesses would lose tax breaks.
- Congress would probably require English as the primary language of government and the public schools as a condition of statehood.

OPTION 4: INDEPENDENCE

- Puerto Rico would become a sovereign nation with its own political system, language, culture, and membership in the United Nations.
- The United States would no longer be obligated to provide financial support, but would lose all military bases unless Puerto Rico agreed to lease them.

(Continued on next page)

- Some or all Puerto Ricans would likely lose U.S. citizenship and the right to reside in the United States.
- Puerto Rico would be a poor nation, depending on foreign aid from other nations.

Puerto Ricans Vote on Options

Puerto Rico has held a series of plebiscites on its future status. The latest was held in 1998. With more than 1.5 million voters casting ballots and a turnout rate of 71.3 percent of all registered voters, the results were as follows:

Option	Number of Votes	Percent of Votes
Territorial Commonwealth	993	0.1%
Free Association	4,536	0.3%
Statehood	728,157	46.5%
Independence	39,838	2.5%
None of the above	787,900	50.3%
Blank and void ballots	4,846	0.3%

U.S. Public Opinion on the Status of Puerto Rico

A March 1998 Gallup poll asked this question:

Do you personally think Puerto Rico: Should become a completely independent nation; should remain a territory of the United States, or, should be admitted to the United States as the fifty-first state?

Become independent	28%
Remain a US territory	26%
Be admitted as the fifty-first state	30%
None/Other	5%
No opinion	11%

In a 1991 Gallup poll more than 60 percent of Americans said they would support independence or statehood for Puerto Rico if a majority of Puerto Ricans voted for either one.

ACTIVITY

Choosing a Political Status for Puerto Rico

1. Divide the class into two parts. The students in one-half will represent the interests of Puerto Rico. The other half will be members of Congress, representing the interests of the United States.
2. All students should study the "Political Status Options for Puerto Rico."
3. While the members of Congress observe from an outer circle, the representatives of Puerto Rico meet in an inner circle to discuss which option they believe is best for Puerto Rico. One seat in the inner circle will be reserved for any member of Congress who wishes to speak. Finally, the representatives of Puerto Rico will vote to decide which option they recommend to Congress.
4. The members of Congress now meet in the inner circle, while those representing Puerto Rico observe from the outer circle. The members of Congress discuss which option they believe is best for the United States. One seat will be reserved in the inner circle for any representative of Puerto Rico who wishes to speak.
5. After all have had a chance to speak, the members of Congress will vote to decide which option they will approve. Its decision is final.

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CRF sends out periodic announcements about new publications, programs, trainings, and lessons. Don't miss out. E-mail us at **andrew@crf-usa.org**. On the subject line, write CRF Listserv. In the message, put your name, school, subject you teach, state, and e-mail address. If you've changed your e-mail address, please notify us.

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PostScript

RESOURCES AND MATERIALS FOR CIVIC EDUCATION

New Lessons Available Online: America Responds to Terrorism

The destruction of New York City's World Trade Center and the attack on the Pentagon in Washington D.C. raise innumerable questions for the social studies classroom. Although the most recent terrorist attacks have the greatest impact on America, they are part of a long and tragic history of terrorism that has been developing around the globe for decades.

Constitutional Rights Foundation has prepared "America Responds to Terrorism," a new series of online lessons and resources designed to help teachers and their students explore and analyze critical national and international issues raised by the recent events. Go to **www.crf-usa.org** and click on New or Online Lessons. We have included in this issue of Postscript one of the lessons that can be found on the web—"How Do You Feel?" We at CRF hope you find these resources useful during this time of national crisis.

The current lessons and resources available fall under these categories.

Reactions to Tragedy. Suggestions for teachers on how to deal with traumatic events and how to handle controversy in the classroom. Ideas for service-learning projects.

Information and Disinformation. Lessons on the media, rumors, and urban legends.

Civil Liberties in Wartime. Lessons related to civil liberty issues from American history as well as contemporary issues.

Separation of Church and State. Lessons on the doctrine of separating church and state.

Islamic Issues. Lessons on Islamic law, freedom of expression, and other issues related to Islam.

International Law and Organizations. Lessons on international law, the United Nations, NATO, and other international organizations.

Terrorism Links. A comprehensive set of links to lessons, media sources, government sources, and information on the Middle East, Afghanistan, Osama bin Laden, maps and geography, Islam, tolerance, think tanks, commentary, and other collections of links on terrorism.

Constitutional Rights Foundation recognizes an urgent need for materials to help educate students about the tragic events and aftermath of September 11. **We are developing additional lessons and resources about terrorism and hope you will return frequently to www.crf-usa.org and "America Responds to Terrorism" as we continue to augment and update this growing site.**

Sample Lesson: "How Do You Feel?"

In this activity, students have the opportunity to express their feelings and discuss their perceptions of the events.

You will need to make copies of the handout **What Do You Think?** (see next page) for your students.

1. One-Word Brainstorm

Ask the students to take a minute or two to think about the one word that best describes their feelings about the attacks that occurred on September 11. Record all students' responses on the board. Review the list and point out how strongly many people feel.

If possible group the various responses under various headings such a fear, anger, confusion and point out that many people are feeling the same thing.

Remind the students that people around the world share the same types of feelings about what has happened and that they are not alone in their thoughts.

2. Perceptions: What Do You Think?

Tell the students that you are interested in what they think and that now they will have an opportunity to use more than one-word to express their views. Divide the class into pairs or triads of students and distribute the Handout "What Do You Think?" to each group. Tell the groups that they should discuss each question and select a person from their group to record the responses.

Remind the class that these are emotional issues, as the brainstorm showed. Not everyone in their groups needs to agree on the answers to the questions, but should listen to and discuss their views with each other respectfully. Each pair or group should select a person to record the responses to the questions and another person who will act as the "reporter" for the group.

Allow the students time to discuss and complete the handout.

3. Sharing Perceptions

Conduct a class discussion using the questions from the handout. Allow each group to share its responses to the questions. Bring closure to the discussion by explaining that as new developments happen, they may change their views about things and that you will continue to be interested in their thoughts.

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America Responds to Terrorism
What Do You Think?

In your opinion....

What are the most important questions Americans should be asking?

What are the most critical things people should be doing right now?

Regular citizens:

Parents:

Schools:

Youth:

Government officials:

World leaders:

Religious leaders:

What do you think are the biggest challenges before us?

What do you hope will happen? Why?

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Criminal Justice in America

Grades: 9–12

Our most popular publication, *Criminal Justice in America*, has been completely revised, updated, and supplemented. This latest edition features new and revised readings, up-to-date statistics, and new, expanded case studies. The most comprehensive secondary text available on the subjects of criminal law, procedure, and criminology, *Criminal Justice in America* can serve as a text for an entire law-related education course or as a supplement for civics, government, or contemporary-issues courses.

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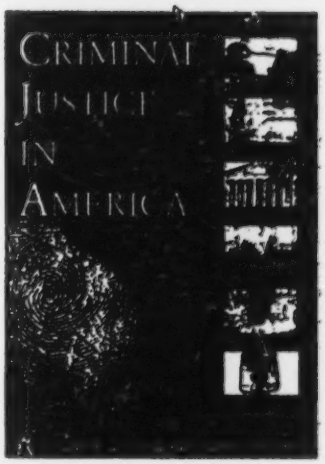
- **Police:** History of law enforcement, criminal investigations, search and seizure, interrogations and confessions, the exclusionary rule, the use of force, and police-community relations.
- **The Criminal Case:** Follows a hypothetical criminal case from arrest through trial. It includes all the key steps of the criminal trial process.



- **Corrections:** Theories of punishment, history of corrections, sentencing, alternatives to incarceration, prison conditions, parole, recidivism, and capital punishment.
- **Juvenile Justice:** History of the juvenile system, delinquency, status offenses, steps in a juvenile case, rights of juveniles, juvenile corrections, transfer to the adult system, and death penalty for juveniles.
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17.4

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Do You Have a School-based Youth Court?

The National Youth Court Center (NYCC) is an information clearinghouse and training and technical assistance provider for youth courts (also called teen, peer, and student courts). NYCC is searching for youth courts located in schools. If your school or district operates a school-based youth court—a program in which youth are sentenced by their peers—please contact the NYCC and provide them with appropriate contact information. Please send information to: NYCC, c/o American Probation and Parole Association, P.O. Box 11910, Lexington, KY 40578.
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NYCC appreciates your help! To learn how NYCC can help you, visit their web site at **www.youthcourt.net**.

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America Responds to Terrorism
We recognize that educators urgently need materials to deal with the tragic events and aftermath of September 11. We have materials available on our web site and we are continually adding new materials to the site. See Postscript on page 13 for details.

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